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9 UNITED STATES DISTRICT COURT  
10 WESTERN DISTRICT OF WASHINGTON  
11 AT TACOMA

12 STEPHEN KNIGHT LEWIS,

13 Plaintiff,

14 v.

15 LAKEWOOD POLICE DEPARTMENT *et al.*,

16 Defendants.  
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No. 08-5589FDB/JRC

ORDER TO PROVIDE ADDITIONAL  
BRIEFING

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19 This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned  
20 Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local  
21 Magistrate Judges' Rules MJR 1, MJR 3, and MJR 4. Before the court is Defendant's  
22 Motion for Summary Judgment (Dkt. # 32).

23 While plaintiff responded to the motion, (Dkt. # 41), he did not submit admissible  
24 evidence to support his allegations that he complied with Officer Butts' orders after the  
25 Taser was first deployed. The Supreme Court in Lujan stated:  
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ORDER- 1

1 Rule 56 (c) provides that judgment “shall be entered” against the nonmoving  
2 party unless affidavits or other evidence “set forth specific facts showing that  
3 there is a genuine issue for trial.” The object of this provision is not to replace  
conclusory allegations of the complaint or answer with conclusory allegations of  
an affidavit. Cf. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986).

4 Lujan v. National Wildlife Federation, 497 U.S. 871, 889 (1990). Further, Plaintiff was  
5 informed of his duty to submit evidence in an admissible format in the Scheduling Order. The  
6 Court stated:

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8 If a motion for summary judgment is filed, it is important for the opposing party  
9 to note the following:

10 A motion for summary judgment under Rule 56 of the Federal Rules of Civil  
11 Procedure will, if granted, end your case.  
12 Rule 56 tells you what you must do in order to oppose a motion for summary  
13 judgment. Generally, summary judgment must be granted when there is no  
14 genuine issue of material fact -- that is, if there is no real dispute about any fact  
15 that would affect the result of your case, the party who asked for summary  
16 judgment is entitled to judgment as a matter of law, which will end your case.  
17 When a party you are suing makes a motion for summary judgment that is  
18 properly supported by declarations (or other sworn testimony), you cannot simply  
19 rely on what your complaint says. Instead, **you must set out specific facts in  
20 declarations, deposition, answers to interrogatories, or authenticated  
21 documents, as provided in Rule 56(e), that contradict the facts shown in the  
22 defendant’s declarations and documents and show that there is a genuine  
23 issue of material fact for trial. If you do not submit your own evidence in  
24 opposition, summary judgment, if appropriate, may be entered against you.  
25 If summary judgment is granted, your case will be dismissed and there will  
26 be no trial.**

Rand v. Rowland, 154 F.3d 952, 962-963 (9th Cir. 1998)(emphasis added).  
Furthermore, Local Rule CR 7(b)(4) states that a party’s failure to file necessary  
documents in opposition to a motion for summary judgment may be deemed by  
the court to be an admission that the opposition is without merit.

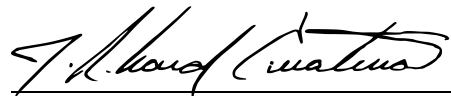
(Dkt. # 14).

Plaintiff states in his response to the motion for summary judgment that he complied with  
Officer Butts’ orders, but he submits no evidence through affidavits or other forms of evidence  
to support his allegation. Plaintiff is acting pro se. The Court grants him a chance to cure the

1 defect in his pleadings. Plaintiff's additional response to the Motion for Summary Judgment  
2 will be due on or before September 25, 2009. Any reply defendants wish to file will be due on  
3 or before October 2, 2009. The portion of the Summary Judgment motion dealing with Officer  
4 Butts and use of the Taser will be re-noted for October 9, 2009.

5 The Clerk's office is directed to send plaintiff a copy of this order, re-note the  
6 Summary Judgment Motion, (Dkt. # 32), for October 9, 2009, and note the due dates for  
7 additional response and reply.  
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9 DATED this 24<sup>th</sup> day of August, 2009.

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13 J. Richard Creatura  
14 United States Magistrate Judge  
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